

Notice of Allowability

Application No.

10/810,959

Examiner

Gay Ann Spahn

Applicant(s)

DEARMOND, THOMAS H.

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to communications filed on 17 August 2005 and 24 March 2005.
2. ☒ The allowed claim(s) is/are 1-8, 10-14 and 20.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

Applicant's election without traverse of the invention of Group I (i.e., claims 1-8, 10, 14, and 21, drawn to a support structure for stonelike objects in soil, classified in class 52, subclass 102), the Group I species of stonelike object being a component of a retaining wall (i.e., claims 18-20), and the Group II species of the support structure being installed on the ground (i.e., claim 19) in the reply filed on 17 August 2005 is acknowledged.

Claims 15-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Attorney William Birdwell on November 13, 2005.

The application has been amended as follows:

IN THE DRAWINGS:

The following changes to the drawings have been approved by the examiner and agreed upon by applicant:

- (1) Fig. 6, change "30" to --26--.

In order to avoid abandonment of the application, applicant must make these above agreed upon drawing changes.

IN THE SPECIFICATION:

The following changes to the specification have been approved by the examiner and agreed upon by applicant:

- (1) page 8, line 15, change "30" to --26--.

IN THE CLAIMS:

The following changes to the claims have been approved by the examiner and agreed upon by applicant:

- (1) cancel claims 15-20.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various support structures capable of supporting stonelike objects are disclosed in: U.S. Patent No. 4,118,892 to Nakamura et al.; U.S. Patent No. 4,437,281 to See et al.; U.S. Patent No. 5,992,106 to Carling et al.; U.S. Patent No.

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6,526,693 to Cochran; U.S. Patent No. 6,802,159 to Kotler; U.S. Patent No. 4,749,302 to DeClute; U.S. Patent No. 4,963,054 to Hayashi; U.S. Patent No. 5,263,289 to Boyd; U.S. Design Patent No. D499,189 to Collison; U.S. Patent No. 6,751,912 to Stegner et al.; and U.S. Patent No. 5,323,575 to Yeh; U.S. Patent No. 2,652,133 to Leigh; U.S. Patent No. 4,091,587 to Depka; U.S. Patent No. 5,406,745 to Lin; U.S. Patent No. 1,951,132 to Cox; U.S. Patent No. RE 35,006 to Ripley, Sr. et al.; U.S. Patent No. 5,400,544 to Wien; U.S. Patent No. 6,266,921 to Keskilohko; and U.S. Patent No. 6,253,487 to Yoshida et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gay Ann Spahn whose telephone number is (571)-272-7731. The examiner can normally be reached on Monday through Thursday, 8:30 am to 7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (571)-272-7049. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gay Ann Spahn, Patent Examiner
November 14, 2005


MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 354